

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	

**COMMENTS OF  
THE MASSACHUSETTS DEPARTMENT OF  
TELECOMMUNICATIONS AND ENERGY**

**I. INTRODUCTION**

The Massachusetts Department of Telecommunications and Energy (“MDTE”) hereby submits these comments pursuant to the Notice of Proposed Rulemaking, released by the Federal Communications Commission (“FCC”) on February 15, 2002.<sup>1</sup> In the Universal Service NPRM, the FCC requests comments on the following issues: (1) how the FCC should define certain statutory terms; (2) whether, in light of the interpretation of the statutory terms, the FCC can and should maintain the previously established benchmark, or adopt a new benchmark; and, (3) how the FCC should induce states to implement universal service policies. The MDTE files these comments in response to the third issue. To summarize, the MDTE urges the FCC to condition federal universal service support on a state’s development and implementation of mechanisms to support universal service within that state’s borders.

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<sup>1</sup> In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Notice of Proposed Rulemaking and Order, FCC 02-41, (rel. February 15, 2002) (“Universal Service NPRM”).

## **II. STATE INDUCEMENTS TO IMPLEMENT MECHANISMS TO SUPPORT UNIVERSAL SERVICE**

The FCC seeks comment on whether it should condition federal universal support on some form of state action. See Universal Service NPRM at ¶ 24. The MDTE responds with an unequivocal “yes.” More specifically, the MDTE urges the FCC to condition receipt of federal universal service support upon on a state’s development and implementation of adequate mechanisms to support universal service within that state’s own borders.<sup>2</sup> The cost of providing service in any given state is rarely uniform throughout that state, and, thus, state programs could subsidize the high-cost areas of providing service by transferring funds from the low-cost areas within that state.

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<sup>2</sup> The MDTE notes that the following 13 states already have state universal service mechanisms in place: Arizona, Arkansas, Colorado, Kansas, Kentucky, Nebraska, Nevada, Oklahoma, Oregon, Pennsylvania, Texas, Vermont, and Wyoming.

The MDTE maintains that the relative burdens for funding universal service argue in favor of conditioning a state's receipt of federal funding on the development and implementation of state universal service support mechanisms. In the MDTE's view, the lack of conditions on receipt of federal universal service support allows high-cost states<sup>3</sup> to rely upon federal funding to subsidize all customers within their borders, and thus, places the burden of universal service funding more heavily upon low-cost states, such as Massachusetts, even though household penetration rates may be lower in low-cost states than in some high-cost states. Admittedly, all states benefit from universal service in that increased subscribership increases the value of the Nation's telecommunications network as a whole; however, that benefit becomes diminished when penetration rates in high-cost states receiving large sums of federal universal service support exceed the penetration rates in low-cost states receiving little such support. For instance, in Massachusetts, the telephone penetration rate is 94.6 percent.<sup>4</sup> In contrast, the telephone penetration rates in Maine and Vermont are 97.9 and 95.6 percent, respectively.<sup>5</sup> Moreover, the FCC estimates that non-rural carriers will receive nearly \$5.5 million in high-cost federal support

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<sup>3</sup> The term "high-cost state" in these comments refers to states with relatively high average costs. Within a high-cost state, however, there may be areas that are relatively low-cost, particularly urban areas.

<sup>4</sup> Trends in Telephone Service, FCC Report by the Industry Analysis Division/ Common Carrier Bureau, at Table 17.2 (August 2001) ("Trends in Telephone Service Report").

<sup>5</sup> Id.

in Maine, and over \$9 million in Vermont.<sup>6</sup> Massachusetts, on the other hand, will receive no such support despite its lower telephone penetration rate.<sup>7</sup> In the MDTE's opinion, such numbers call for a more equitable distribution of the burdens of funding universal service.

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<sup>6</sup> Common Carrier Bureau Releases Estimated State-By-State High-Cost Universal Service Support Amounts for Non-Rural Carriers for 2002, CC Docket No. 96-45, Public Notice, DA 01-2927 (December 18, 2001). The MDTE also notes that Maine Public Utilities

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Commission and the Vermont Public Service Board recently petitioned the FCC for reconsideration of the FCC Order upon which the non-rural carrier support estimates were based. See Petition for Reconsideration, In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (filed February 22, 2002). In their Petition, the Maine Public Utilities Commission and the Vermont Public Service Board ask the FCC to order that carriers receive in 2002 the greater of the amount already published for 2002 or the amount actually distributed in 2000. In 2000, Maine received over \$11 million in high-cost federal support and Vermont received over \$15 million.

<sup>7</sup> Trends in Telephone Service Report at Table 17.2.

Additionally, the MDTE urges the FCC to go beyond merely conditioning receipt of federal funds on implementation of state universal service programs. More precisely, the MDTE urges the FCC also to require that state universal service funding mechanisms cover a percentage of the difference between the national cost benchmark and the incumbent local exchange carriers' costs of providing supported services to high-cost areas in that state before seeking federal support for the remainder of the difference. Requiring states to take an integral role in implementing the goals of universal service by funding, through state programs, a set percentage of the costs to ensure reasonable comparability between urban and rural rates within that state will lessen the demand for federal universal service support. This, the MDTE maintains, will promote the long-term stability of the federal universal service contribution system, and, in turn, will allow the FCC to achieve the Act's mandate of sufficiency of the universal funding mechanism more efficiently. Such a requirement would also be generally consistent with the principle that states should help themselves as a preliminary to seeking federal assistance.

With regard to the question of sufficiency of the fund, the MDTE maintains that sufficiency on the universal funding mechanism should be determined by considering both federal and state support. Universal Service NPRM ¶ 17. The Act clearly envisions a partnership between federal and state governments to advance universal service, and, consequently, consideration of the resources of both the federal and state government is a logical extension of that partnership.

Finally, in defining sufficiency, the MDTE urges the FCC to remain true to the goal of ensuring that the fund is no larger than necessary. Should the FCC stray from this goal, low-cost states will be forced to pick up a greater tab. And it is, after all, not the low-cost states' tab. Accordingly, the principles listed in section 254(b) of the Act must be considered equally with that of reasonable comparability.

#### **IV. CONCLUSION**

The MDTE urges the FCC to condition a state's receipt of federal universal service funding upon the development and implementation of an adequate state program. The MDTE further recommends that such state program cover a percentage of the costs of providing service to high-cost areas which exceed the national benchmark. Adopting these measures, in the MDTE's view, will preserve and advance the goals of universal service.

Respectfully submitted,

Commonwealth of Massachusetts  
Department of Telecommunications and Energy

Comments of the MDTE  
CC Docket No. 96-45  
April 10, 2002

By:

\_\_\_\_\_/s/\_\_\_\_\_  
James Connelly, Chairman

\_\_\_\_\_/s/\_\_\_\_\_  
W. Robert Keating, Commissioner

\_\_\_\_\_/s/\_\_\_\_\_  
Paul B. Vasington, Commissioner

\_\_\_\_\_/s/\_\_\_\_\_  
Eugene J. Sullivan, Jr., Commissioner

\_\_\_\_\_/s/\_\_\_\_\_  
Deirdre K. Manning, Commissioner